Supreme Court, U.S.
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No. _____

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In The

Supreme Court of the United States

October Term, 1998

ESTATE OF DAVID MILLER
FRED DAVIS
GERTRUDE DAVIS GOROD

Petitioners,

v.

EDITH TABACHNICK

Respondent.

Petition For Writ Of Certiorari
To The Massachusetts Supreme Judicial Court

PETITION FOR WRIT OF CERTIORARI

Fred Davis
Gertrude Davis Gorod
353 Bryant Street
Malden, Massachusetts 02148
(781) 322-8223

7188

ISSUES PRESENTED

I.

Should this Court grant Certiorari to protect the public interest in whether a trial judge has the right to deprive individuals the manner in which to exercise their freedom of religion by informing them, he is of the same religion as they are.

II.

Should this Court grant Certiorari to protect the public interest of the poor, elderly, minorities and pro se parties from being treated differently than attorneys resulting in depriving them of justice.

III.

Should this Court grant Certiorari because the petitioners were deprived of their Constitutional Rights. They were prohibited the right to freedom to exercise their religion as stated in the United States Constitution Amendment I.

Petitioners were deprived of due process of law as set forth in the United States Constitution Amendment V.

Petitioners were deprived of equal protection of the law as set forth in the United States Constitution Amendment XIV.

IV.

Should this Court grant Certiorari when Judge La Staiti abused her power and discriminated against the petitioners because of their age and religion.

V.

Should this Court grant Certiorari because of biases and prejudices.

VI.

Should this Court grant Certiorari because the inferior courts erred in its decisions.

VII.

Should this Court grant Certiorari when Attorney, Joseph S. Provanzano acted in bad faith violated the Canon Rules and violated the Massachusetts Attorney's Oath as set forth in Massachusetts General Laws 221 section 38.

VIII.

Should this Court grant Certiorari to remove the Commissioner as a Commissioner is not needed and the facts and evidence clearly reveals that he is in a conspiracy to steal the properties away from the legal heirs who are the petitioners in this action.

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Petitioners, Fred Davis and Gertrude Davis Gorod, respectfully pray that a Writ of Certiorari issue to review decisions of the Massachusetts inferior courts and grant them the following relief: (1) The property of the Estate of David Miller is to be turned over and deeded solely to the petitioners for their own personal use. (2) Commissioner Robert G. Funke 58 Tremont Street Taunton, Massachusetts is to be removed forthwith as he is not needed to sell property that is to be used by the petitioners. (3) Sanctions are to be placed upon Joseph S. Provanzano and Provanzano & Associates 16 Bourbon Street Peabody, Massachusetts (4) $1.6 million dollars is to be returned to the petitioners by the respondent Edith Tabachnick for items stolen from the Estate by her. (5) Petitioners are to be granted all legal fees and cost and any other relief the court deems appropriate.

OPINIONS BELOW

Memorandum of Decision and Order On Petition to Partition from the Bristol Probate and Family Court bearing the names of Zobel, J and Malcolm Jones,J.

Appointed Robert Funke,Commissioner, 27.5% Titled to Petitioner Fred Davis and 27.5% to Gertrude Davis Gorod. (APP. p. 39).

Massachusetts Appeals Court upheld the lower court's decision (APP. p. 43).

Massachusetts Supreme Judicial Court denied Application for Further Appellate Review (APP. p. 46).

JURISDICTION

March 30, 1999, the Massachusetts Supreme Judicial Court denied Application For Further Appellate Review.

This petition is filed within the 90 days of the Massachusetts Supreme Judicial Court's ruling.

This Court's jurisdiction is invoked under 28 United State Code.

UNITED STATES CONSTITUTIONAL PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides in pertinent part:

"no law respecting an establishment of religion or prohibiting the free exercise thereof:".

The Fifth Amendment to the United States Constitution provides in pertinent part:

"cannot be deprived of life, liberty, or property, without due process of law".

The Fourteenth Amendment to the United

States Constitution provides:

"All persons born or naturalized in the United States, and subject to the Jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States: nor shall any State deprive any person of life, liberty, or property, without due process of law: nor deny to any person within its jurisdiction the equal protection of the law".

STATEMENT OF THE CASE

The petitioners Fred Davis and Gertrude Davis Gorod are the legal heirs to the Estate of David Miller.

Joseph S. Provanzano has filed several continuing frivolous, fraudulent etc., actions in attempting to steal the petitioners inheritance causing them pain and suffering and is in violation of Massachusetts General Laws 19A section 14 "Financial Exploitation of the elderly."

The Respondent Edith Tabachnick is not a legal heir to the Estate of David Miller.

Tabachnick is an imposter, she is a member of the Church of Scientology, for approximately thirty-two years.

Tabachnick broke into the home of the late David Miller, after his funeral and removed 1.6 million dollars of items along with a copy

of his will leaving only his bed and refrigerator.

In addition, she stole $250,000.00, of items belonging to the petitioner, Gorod.

Tabachnick was informed by both the administrator and the Estate's Attorney to return these items (APP. p. 2), however, she refused to return them.

Respondent, Tabachnick has engaged six attorneys David T. Gay, Joseph S. Provanzano (he has two complaints filed against him in the Boston Bar Overseers), Rocco Senese, Stewart III, Paul Derby, and Margolis, they have violated the Canon Rules of Misconduct, Attorney's Oath by telling falsehoods to the court and obstructing justice, in order to cheat the petitioners out of their rightful inheritance.

Attorney Provanzano filed a fraudulent petition which is illegible, contains no signature or official court stamp (APP. p. 1)

In, addition there is no certification of service on bottom of (APP. p. 1).

February 18, 1997, petitioner, Gorod filed Sanctions and Costs against Joseph S. Provanzano for filing a frivolous illegible document, failure to notify Gorod and telling falsehoods to the Court (APP. p.28), moreover, there is no appearance record of Joseph S. Provanzano in the court. This motion was denied by Judge La Staiti.

February 28, 1997, Petitioner, Gorod filed Additional Sanctions and Costs Against Joseph S. Provanzano for Continuing To Act In Bad Faith (APP. p. 33), he engaged in continuing to tell falsehoods to the court and using the court as a tool to harass and hurt the petitioners.

This motion was denied by Judge La Staiti.

June 12, 1997, petitioners filed Motions Barring the Bristol County From Hearing and Ruling on any Matters Regarding the Estate of David Miller (APP. p. 24). because of bias and prejudices, since there is pending legal action against employees in the Bristol County and Family Probate Court including Judge La Staiti.

These motions were denied by Judge La Staiti.

Denial of these motions was inappropriate.

June 27, petitioners filed Motions For Change of Venue For Reasons of Local Prejudices (APP. p. 9), because of the bias and prejudices and the facts were clearly revealed when all petitit-ioners motions were all denied by Judge La Staiti, who is involved in legal action pending for misconduct along with other employees employed in that court.

June 30, 1997, petitioner, Gorod served upon the respondent and her attorney, Joseph S. Provanzano Notice of Taking Deposition of Edith Tabachnick and Duces Tecum (APP. p. 14). Tabachnick did not appear for her deposition nor was

the petitioner notified that she would not appear.

July 8, 1997, petitioners filed Motions For Sanctions For Failure to Appear At a Pretrial Conference and Failure to Comply with Court Order (APP. p.21), because Joseph S. Provanzano and Paul M. Derby did not attend the pretrial conference and failed to comply with Court Order (APP. p. 23) Judge La Staiti did not rule on petitioners motions.

July 9, 1997, petitioners filed Motions In Opposition To Proposed Statement of The Case, Proposed Agreed Upon Facts, and Edith Tabachnick's Proposed Judgment at the Conclusion of the Evidence (APP. p.15) and (APP. p. 17) AFFIDAVIT (APP. p. 19) because the respondent's papers misrepresented the facts, since the respondent is not a legal heir to the estate and is using the court to steal the petitioners inheritance.

July 11, 1997, petitioner, Gorod filed Motion To Dismiss the Action or As An Alternative Compel Edith Tabachnick To Be Deposed, Duces Tecum and Costs (APP. p. 11), because the respondent failed to appear for her deposition nor was the petitioner Gorod notified that she would not appear. This motion was denied by Judge La Staiti.

September 22, 1997, petitioners filed, Defendants' Compelling Continuance of hearing because of the Jewish Holiday (APP. p. 10). This motion was denied by Judge Malcolm Jones.

October 9, 1997 Petitioner Fred Davis filed his Claim Against the Estate in the amount of $25,777.03 (APP. p. 3).

October 9, 1997. Petitioner, Gertrude Davis Gorod filed Gertrude Davis Gorod's Claim Against the Estate of David Miller in the sum of $844,475.54 (APP. p. 6).

October 30, 1997, petitioners received an illegal Memorandum of Decision and Order to Partition.

This document bears the name of Judge Zobel who is a judge in the Middlesex Superior Court in Cambridge, Massachusetts and in no way does he preside over any cases in the Bristol County Probate and Family Court in Taunton, Massachusetts or New Bedford, Massachusetts(APP. p. 39).

Therefore, since the order is completely off its mark based on the facts and evidence the petitioners appealed the inferior court's order.

The Bristol Probate & Family Court (Hanna, Toni, and R.E.Peck) refused to assemble the record, their excuse was that Judge Malcolm Jones did not want his Court Order to be **APPPEALED.**

Appellants filed Motions Compelling R.E. Peck, Register To Immediately Assemble the Record and Forward to the Appeals Court in Boston. These motion were denied by Judge Malcolm Jones.

Petitioners were compelled to appear in the office of the Chief Justice in Boston, in order to get the record assembled and forward to the Appeals Court in Boston for review of Judge

Malcolm Jones' order (APP. p. 39).

The Appeals Court erred in its decision in which they admit they did not address the vital issues that the petitioners requested (APP. p.43)

The petitioners appealed to the Massachusetts Superior Judicial Court for Application of Further Appellate Review.

Petitioners Application For Further Appellate review was denied (APP. p. 46).

Now the petitioners, Fred Davis and Gertrude Davis Gorod respectfully request this court to grant a Writ of Certiorari to review the injustice placed upon them.

ARGUMENT

REASONS FOR GRANTING THE PETITION

I. CERTIORARI SHOULD BE GRANTED TO PROTECT THE PUBLIC INTEREST IN WHETHER A TRIAL JUDGE HAS THE RIGHT TO DEPRIVE INDIVIDUALS THE MANNER IN WHICH TO EXERCISE THEIR FREEDOM OF RELIGION BY INFORMING THEM HE IS THE SAME RELIGION AS THEY ARE

A hearing was scheduled at New Bedford, Massachusetts (which is approximately one hundred and forty miles round trip from the petitioners homes) on a Jewish Holiday, the most religious holiday in the Jewish Orthodox calender.

Petitioners filed a Motion For Continuance of Hearing (APP. p. 10), however, this motion was denied by Judge Malcolm Jones.

Petitioner, Gorod was informed by the Bristol Probate and Family Court that if she did not appear or Fred Davis did not appear a default would be placed upon them and they would lose all their appeal rights.

Therefore, Petitioner Gorod was deprived of her religious freedom to go to the Synagogue to say prayers for her parents and petitioner was deprived of his right to defend the action along with his witnesses, who were also Orthodox Jews.

Petitioner, Gorod asked for a continuance at the start of the hearing because her brother could not be present, Judge Malcolm Jones quickly said, "I'm here".

The mere stating that he was Jewish does

not mean a thing since there are seven different kinds of Jews and they all worship in different manners.

There are Reform Jews, Conservative Jews, Orthodox Jews, Traditional Jews, Independent Jews, Sephardic and Reconstructionist Jews.

The Appeals Court erred in its decision when they used the criteria that Judge Malcolm Jones was Jewish and he was in the courtroom on that day.

If, the inferior court's decision is left undisturbed it will adversely effect the public interest.

It will give trial judges a free hand in destroying the first Amendment to the United States Constitution and they will dictate what manner individuals can, when, and how they can worship because a trial judge merely states he is of the same religion.

II. CERTIORARI SHOULD BE GRANTED TO PROTECT THE PUBLIC INTEREST OF THE POOR, ELDERLY, MINORITIES AND PRO SE PARTIES FROM BEING TREATED DIFFERENTLY THAN ATTORNEYS RESULTING IN DEPRIVING THEM OF JUSTICE

Massachusetts Rules of Civil Procedure Rule 26 (a) grants the obtaining of discovery by deposition and written interrogatories. however, since the petitioners are pro se litigants they were deprived of deposing the respondent and deprived of obtaining interrogatories from the respondent leaving petitioner without any discovery which they are entitled to as a matter

of law.

Joseph S. Provanzano went before the Court and in his documents he lied, which is a direct violations of the Canon Rules and the Attorney's Oath.

The Court took no action against him.

Joseph S. Provanzano and Paul M. Derby defied a Court Order by not appearing for a pre-trial conference (APP. p. 23) no default was placed upon them, while on the other hand, the poor, elderly, minorities and pro se parties are being defaulted.

Joseph S. Provanzano went so far not to file a motion as required by M.R.C.P., he merely wrote a letter to the Court (APP. p.36), which was accepted by the Court.

The situation is completely different. Petitioners Motions in Opposition To respondent's frivolous actions are not being accepted by the court which is depriving the petitioners of their United States Constitutional Right of due process of law and equal protection of the law.

If, Massachusetts inferior Courts are going to be allowed to operate in this manner, the public in Massachusetts will be deprived of justice.

The only ones in Massachusetts who are winning actions are the young, rich and not a minority and they engage unscrupulous attorneys.

The bottom line is that the Massachusetts Judicial System is completely out of control.

III. CERTIORARI SHOULD BE GRANTED BECAUSE PETITIONERS WERE DEPRIVED OF THEIR CONSTITUTIONAL RIGHTS AMENDMENTS I, V. AND XIV

UNTED STATES CONSTITUTION AMENDMENT I: which states in pertinent part: "Congress shall make no law respecting an establishment of religion, or prohibiting the FREE EXERCISE thereof"

The petitioner, Gorod was unable to go to the Synagogue to say prayers for her parents and Davis was unable to attend the hearing.

In addition, petitioners were unable to have their witnesses present at the hearing, due to the fact, that they are Orthodox Jews.

The inferior court erred in law and is off the base when they used the criteria that Judge Jones is Jewish. The mere statement that he is jewish does not mean anything.

Judge Jones never stated what type of Jew he is. Is he Reform, Conservative, Orthodox, Traditional, Independent, Sephardic, Reconstructionist or does he practice Judaism?

Gorod, was threaten by the Court that she had to appear on the Jewish Holiday or a default would be placed upon her and she would lose her appeal rights.

The inferior court missed its mark when it based its decision on the fact that Gorod appeared without addressing the fact that Gorod was threaten to appear.

Petitioner Gorod was denied her freedom to exercise her religion.

THE UNITED STATES CONSTITUTION AMENDMENT V:
STATES IN PERTINENT PART: "....cannot be deprived of property without due process of law".
THE UNITED STATES CONSTITUTION AMENDMENT XIV:
STATES IN PERTINENT PART: "....deprive any person of property, without due process of law nor deny to any person within its jurisdiction the equal protection of the laws".

Petitioners are being deprived of their property without due process of law.

The court is taking away the petitioners' property (inheritance when it did not address the vital issue that the respondent is not a heir to the Estate of David Miller) and deprived petitioner, Davis from being able to be present at the hearing and deprived him of having witnesses at hearing.

The facts indicate that the Court deliberately scheduled a hearing on the Jewish Holiday to prevent the petitioners witnesses to testify to the fact that Tabachnick is not an heir to the Estate and she stole everything from the Estate.

The court took away the petitioners' property (inheritance) when it did not address the issue that the respondent broke into the Estate and took items in the amount of 1.6 million dollars and items from Gorod in the amount of $250,000.00.

Thereby, cheating the petitioners out of their inheritance without due process of law and equal protection of the law.

Petitioners were also denied due process of law and equal protection of the law, when they were denied discovery.

Massachusetts Rules of Civil Procedure Rule 26 (a) "parties may obtain discovery by one or more of the following methods: (b) depositions oral examinations....written interrogatories ....."

Respondent did not appear for deposition nor did she answer interrogatories.

The Court erred in law in not dismissing the action.

Dismissal of an action is appropriate when one fails to appear for a deposition: MANNING V. MANNING 136 Colo 380 317 P 2d 320, EVANS v. SCHLRIN Mun Ct App Dist Col 51A 2d 472, TURNER v.ANDERSON 476 So 2d 899 ESTATE OF ATWOOD 240 ME Ed 451, BERGIN V. ASHFORD 263 NE 2d 266, WHITE V. HENROTIN HOSPITAL 398 ME 2d 457, VALDIVIA v. CHICAGO & NORTH WESTERN TRANS. CO. 409 ME 2d 457. SUCKOW V. BOONE STATE BANK & TRUST CO. 314 NW 2d 412, FIELD V. STAUFFER PUBLICATIONS, INC. 578 P2 1138, ALLAN V. SMITH 390 So 2d 1300, AZARIAN V. ETTINGER 435 NE 638, MCARTHUR PATTON CHRISTIAN ASSOC. V. FARM BUREAU INSURANCE GROUP 270 NW 2d 101, BREZA V. SCHMITZ, 248 NE 2d 921, VENKER V. HYLER 353 SW 2d 590, ROBERSON V. KILBORN 40 Nev. 423, 165 P 220. KALOSHA V. NOVICK 426 P 2d 598, DUBOIS V. IOVINELLA 222 Nev S2d 460. SEE GRANT V. CLAIROL INC. 113 F.R.D. 574 (E.D. Penn.), action was dismissed on the ground of refusal to respond to discovery.

"No one is exempt from being deposed, even though he may be president of the United States as no one is above the law" JONES V. CLINTON L.R-C-94 290

United States Eastern District Court of Arkansas.

IV. CERTIORARI SHOULD BE GRANTED BECAUSE JUDGE LA STAITI ABUSED HER POWER AND DISCRIMINATED AGAINST THE PETITIONERS BECAUSE OF THEIR AGE AND RELIGION

Judge La Staiti scheduled a pre-trial hearing and Order to appear in Court on June 23, 1997, at New Bedford at 9:30 A. M.

To get there on time petitioners had to get up at 3:00 A. M., petitioners are senior citizens, causing them a hardship and burden.

Provanzano and Derby never appeared in court for the pretrial conference and no default was placed on them.

Judge La Staiti in spite of her own Court Order (APP. p. 23) did not place any sanctions against them.

The facts evidence clearly show pettioners were discriminated against because of their age and religion.

V. CERTIORARI SHOULD BE GRANTED BECAUSE OF BIASES AND PREJUDICES

Petitioners file Motions For The Change of Venue for reason of Local Prejudices (APP. 9).

Judge La Staiti was a party to a legal action and other employees in the Bristol County system.

Therefore, it was a conflict for Judge La Staiti to be a judge on a case, in which petitioners were suing her.

Judge La Staiti denied Change of Venue, therefore, it closed the door for the petitioners receiving a fair and impartial trial.

VI. CERTIORARI SHOULD BE GRANTED BECAUSE THE INFERIOR COURTS ERRED IN ITS DECISIONS

The inferior court erred in having a trial based on a fraudulent document (APP. P. 1).

The document is illegible bears no signature of Robert E. Peck, lacks who served the citation and contains false information that "Edith S. Tabachnick of Los Angles State of California" (APP. p. 1).

The fact of the matter, by attorney Joseph s. Provanzano and Paul M. Derby's own document state copy of the fraudulent document was mailed to the respondent Tabachnick at 122 Maple Street Malden, Massachusetts (APP. P. 32).

In addition, petitioner Gorod was not served a copy of the fraudulent document.

The Appeal Court erred in never addressing the most vital issue that the respondent is an imposter and not a legal heir to the Estate.

The inferior court erred in never addressing the most vital issue that respondent is an imposter and not a legal heir to the estate of David Miller.

Judge jones cover-up this issue in his decision by stating it was resolved before, however, this is not true, it has never been resolved, by the court.

COMMISSION ON JUDICIAL CONDUCT (A) adjudicate responsibilities (4) a judge should accord to every person who is legally interested in proceeding full right to be heard....", however, Fred Davis was deprived of the right to be heard because of his religion.

Jones, did not give the petitioners a fair and impartial hearing, in addition his decision does not make sense, as it bears the name of Zobel, J (APP. p. 39).

Appeals Court erred in its decision based on the fact that Judge Jones said, "he was Jewish and that Gorod appeared in court, without reviewing the facts.

Gorod was threaten into coming into court on the Jewish Holiday by informing her, she would lose her appeal rights, therefore, depriving the freedom to exercise her religion and deprive her of saying prayers for her parents.

Appeals Court erred in knowingly and wilfully did not address the vital issues requested by the petitioners on appeal.

Appeals Court erred when it allowed attorney's fees from senior citizens who are unemployed and double costs for appeal, when the respondent filed a action based on a fraudulent document (APP. p. 1). The appeals court let an imposter steal petitioners inheritance in the amount of 1.6 million dollars and $250,000.00, in items belonging to Gorod it just does not make sense.

Petitioners did reproduce documents in their appendix which contained sixty-nine pages and forty-nine brief and complete transcript. **SEE HAINES v. KERNER 404 U.S. 519** "The Court should be lenient with Pro Se Cases", **HUGH v. ROWE 449 U.S.5,9** "When proceeding Pro Se documents

should be read liberally and less stringent than documents drafted by lawyers".

Moreover, if necessary the Appeals Court can take advantage of its freedom to make to use portions of the record not included in appendix.

VII. CERTIORARI SHOULD BE GRANTED BECAUSE JOSEPH S. PROVANZANO AND PAUL M. DERBY VIOLATED THE CANON RULES AND ATTORNEYS OATH

Joseph S. Provanzano and Paul M. Derby have continuing used the courts to file frivolous actions. At this time, they have filed an action with a fraudulent document (APP. p. 1) and they are fully aware that Tabachnick is not a legal heir to the Estate of David Miller.

Mr. Provanzano has two Complaints against him filed at the Massachusetts Bar Overseers.

They have lied to the Court which is in direct violation of the Canon Rules and Attorneys Oath which is grounds for disbarment.

VIII. CERTIORARI SHOULD BE GRANTED TO REMOVE ROBERT FUNKE AS COMMISSIONER

Petitioners do not need Robert Funke to sell any property for them as they want the property for their own personal use which they are entitled to as a matter of law.

Since Funke was appointed commissioner, a garage in good condition, has been broken into and all lumber and contents has been removed and door is left wide open.

Funke is not needed and must be removed as

commissioner.

Finally, Appeals Court's decision if not disturbed will jeopardize the complete functions pertaining to the legal aspects of settling estates.

There will be break-ins in homes, by imposters stating they are heirs, contents removed and Estates will not be able to be probated.

Losers will be legal heirs to the Estates along with State and the Federal government losers of monies due them on inheritance taxes.

CONCLUSION

WHEREBY, Petitioners, Fred Davis and Gertrude Davis Gorod, respectfully pray that Writ of Certiorari issue to correct the miscarriage of justice inflicted upon them and any other relief the Honorable Court deems appropriate.

Respectfully submitted

Gertrude Davis Gorod

Fred Davis
353 Bryant Street
Malden, Ma 02148
(781) 322 8223)

Gertrude Davis Gorod
371 Bryant Street
Malden, Ma 02148

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss **PROBATE COURT**

To: Fred Davis and Gertrude Davis Gorod both of Middlesex_____and all other persons interested.

A petition has been presented by said court by Edith S. Tabachnick of Los Angeles State of California

THE REMAINDER OF THE CONTENTS OF THIS DOCUMENT IS ILLEGIBLE.

Printed name Robert E. Peck

No Date

I, certify under the penalties of perjury that I have served the foregoing citation by

_____

_____

NO SIGNATURE OR DATE

APP. 2

Mark F. Berch
Braintree, Ma.

March 26, 1990

David T. Gay,
Gay and Gay
73 Washington St.
Taunton, Ma 02780

In re: Estate of David Miller

Dear Mr. Gay:

With regard to the above matter I am requesting that your client Edith Tabachnick provide my office with the deed and keys to the real estate in Raynham and the keys title and regisration to the motor vehicle.

Additionally for the items that Ms. Tabachnick has stated that she removed from the property after Mr. Miller's death, I require a full accounting and itemization of everything.

I would like to know the complete name and address of all persons who accompanied your client into the house when these items were removed. At this time I am attempting to collect the estates's property and the cooperation of your client is essential for me to achieve this purpose.

Kindly contact my office at your earliest convenience to further discuss this matter.

Very truly yours,
S/ Mark F. Berch

APP. 3

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS. PROBATE AND FAMILY COURT
DOCKET NO. 96E0055-PP

ESTATE OF DAVID MILLER

FRED DAVIS' CLAIM AGAINST THE ESTATE OF DAVID MILLER

Now comes Fred Davis, heir to the Estate of David Miller and files his claim against the Estate of David Miller in the amount of $25,777.03.

MEMORANDUM IN SUPPORT OF FRED DAVIS' CLAIM AGAINST THE ESTATE OF DAVID MILLER

Fred Davis, when he was administrator and when he was not administrator, he paid Expenses of the Estate of David Miller.

There are Traveling and Expenses and Time Spent regarding the Estate of David Miller when he was administrator. See **AFFIDAVIT AFFIXED HERETO: AS FRED DAVIS' EXHIBIT "A" IN THE COMBINED TOTAL OF $25,777.03.**

WHEREBY FRED DAVIS DEMANDS THAT THESE MONIES BE PAID TO HIM.

By, Fred Davis, Heir to the
Estate of David Miller
353 Bryant Street
Malden, Ma 02148
(781) 322-8223

AFFIDAVIT OF FRED DAVIS

I, Fred Davis, being first duly sworn and say:

1. I am a legal heir to the Estate of David Miller.
2. I have cared for and provided for the health and well-being of my uncle David Miller and his brother John Miller who was also my uncle.
3. I was for a period of time the Administrator of the Estate of David Miller.
4. Attached is Fred Davis' Exhibit "A" in the combined Total of $25,777.03, which consists of five pages of true copies of accounting records of the Estate of David Miller Expenses and eight pages of true copies of accounting records of Time Spent, Traveling and Expenses pertaing to the Estate of David Miller.

   These records substantiate the fact that Fred Davis paid $25,777.03, out of his own funds, pertaining to the Estate of David Miller.
5. Fred Davis is entitled to reimbursement as a matter of law.
6. Accounting records show that Gertrude Davis Gorod paid 50% of taxes and 50% of water bills pertaining to the Estate of David Miller in the amount of $3,475.54, which she is entitled to reimbursement as a matter of law.
7. I have read the foregoing and swear that it is true to the best of my knowledge and belief.

S/ Fred Davis, Heir to the Estate
of David Miller

On this 8th day of July, 1997, Fred Davis personally appeared before me and being by me first duly sworn, did make oath and say that the matter set forth in the foregoing Affidavit is true to his own knowledge and belief.

S/Diane DiNucci, Notary Public

My Commission Expires 3/18/99

APP. 6

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS. PROBATE AND FAMILY COURT
DOCKET NO. 96E0055-PP

ESTATE OF DAVID MILLER

GERTRUDE DAVIS GOROD'S CLAIM AGAINST THE ESTATE OF DAVID MILLER

Now comes Gertrude Davis Gorod, heir to the Estate of David Miller and files her claim against the Estate of David Miller. Edith Tabachnick is not a legal heir to the Estate of David Miller, she stole $25,000.00, from Gertrude Davis Gorod, in items belonging to her. She stole 1.6 million dollars from the Estate of David Miller which 50% of the estate belongs to Gertrude Davis Gorod. Legal fees in the amount of $16,000.00. Taxes and water paid pertaining to the estate, in the sum of $3,475.54.

Therefore, Gertrude Davis Gorod, places her claim against the Estate of David Miller in the amount of $844,475,54.

WHEREFORE, Gertrude Davis Gorod, Demands that these monies be paid to her.

By,
S/Gertrude Davis Gorod, Heir to
the Estate of David Miller
371 Bryant Street
Malden, Ma 02148

AFFIDAVIT OF FRED DAVIS

I, Fred Davis, being first duly sworn and say:

1. I am a legal heir to the Estate of David Miller.
2. I have cared for and provided for the health and well-being of my uncle David Miller and his brother John Miller who was also my uncle.
3. I was for a period of time the Administrator of the Estate of David Miller.
4. I have filed with the court a previous claim against the Estate of David Miller in the amount of $25,777.03 for monies paid out of my own funds pertaining to the Estate of David Miller.
5. June 9, 1998, I paid both the 1998, real estate and water bills for the Estate of David Miller in the combined amount of $1,817.21.
6. I am now filing a claim against the Estate of David Miller in the amount of $27,594.24, to include the 1998 real estate and water bills that I paid out of my own funds for the Estate of David Miller.
7. I am entitled to reimbursement of these monies as a matter of law.
8. Filed previously with the court is a claim against the Estate of David Miller by Gertrude Davis Gorod an heir to the Estate of David Miller.
9. I have read the foregoing and swear that it is true to the best of my knowledge and belief.

S/Fred Davis, Heir to the
Estate of David Miller

On this 13 day of June, 1998, Fred Davis personally appeared before me and being by me first duly sworn, did make oath and say that the matter set forth in the foregoing Affidavit is true to his own knowledge and belief.

S/ Jodi B. Lloyd, Notary Public
My commission expires: 12/17/04

APP. 9

COMMONWEALTH OF MASSACHUSETTS
PROBATE AND FAMILY COURT DEPARTMENT
BRISTOL, ss DOCKET NO. 96-E0055-PP

ESTATE OF DAVID MILLER

MOTION FOR CHANGE OF VENUE FOR REASON OF LOCAL PREJUDICES

Gertrude Davis Gorod, heir to the Estate of David Miller requests that there be a change of venue in the above-cited action because of local prejudice and there are pending action in the United States Court and the Massachusetts Supreme Court against Judge Elizabeth O'Neill La Staiti and other employees in the Bristol County Court system.

Therefore, there can not be an impartial trial in the above action in the Bristol County in which said proceedings are now pending.

Wherefore, Gertrude Davis Gorod, heir to the Estate of David Miller moves that this honorable court should order said proceedings to be removed to another county for trial, said county should be in the Middlesex County Probate Court in Cambridge.

By,
S/ Gertrude Davis Gorod, Heir to the Estate of David Miller

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, PROBATE AND FAMILY COURT
DOCKET NO. 96E0055-PP

ESTATE OF DAVID MILLER

DEFENDANTS' COMPELLING CONTINUANCE OF HEARING

September 16, 1997, the defendant, Gertrude Davis Gorod, telephoned the Bristol County Probate and Family Court in Taunton, Massachusetts and spoke to an individual who identified herself as Gail.

The defendant Gorod informed her that she and the defendant Fred Davis could not attend a hearing that was scheduled for October 9, 1997, at New Bedford because of the Jewish Holiday.

However, this hearing is applicable since these same issues are in the appeal process in both the Federal Court for the First District Court of Appeals and the United States Supreme Court.

Therefore, this action is to be continued until the appeal process is completed pending the results.

Wherefore, based on the foregoing facts the defendants request the court to allow their compelling continuance of hearing.

By,
S/ Gertrude Davis Gorod
Heir to the Estate of
David Miller

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, ss. PROBATE & FAMILY DEPT.
Docket No. 96E0055-PP
ESTATE OF DAVID MILLER

GERTRUDE DAVIS GOROD'S MOTION TO DISMISS THE ACTION OR AS AN ALTERNATIVE COMPEL EDITH TABACHNICK TO BE DEPOSED, DUCES TECUM AND COSTS

Now comes Gertrude Davis Gorod, heir to the Estate of David Miller and moves the Court to Dismiss the Action, due to the fact, that Edith Tabachnick did not appear for her deposition nor was Gertrude Davis Gorod notified that she would not attend.

As alternative, Edith Tabachnick be compelled to be deposed, duces tecum enforced and costs of the deposition.

MEMORANDUM IN SUPPORT OF GERTRUDE DAVIS GOROD'S MOTION TO DISMISS THE ACTION OR AS AN ALTERNATIVE COMPEL EDITH TABACHNICK TO BE DEPOSED, DUCES TECUM AND COSTS

June 30, 1997, Edith Tabachnick and her attorney Joseph S. Provanzano were duly notified of Notice of Taking Deposition of Edith Tabachnick and Duces Tecum, Exhibit A attached hereto:

July 8, 1997, Gertrude Davis Gorod, received a telephone call from Donna of the Doris O. Wong Professional Court Reporting Service informing her that Provanzano & Associates cancelled the deposition of Edith Tabachnick which was scheduled

for July 11, 1997, without giving any reason or cause.

Gertrude Davis Gorod was not notified of the cancellation by Provanzano.

This is a continuation of harassment inflicted upon Gertrude Davis Gorod, by Edith Tabachnick and her attorneys and the continuing of obstruction of justice.

The Court can clearly see first they file a motion objecting to the portion of Duces Tecum than they don't appear for the deposition.

Dismissal of an action is appropriate when one fails to appear for a deposition: Manning v. Manning v. Manning 136 Colo 380, 317, P 2d 329 (1957), Evans v. Schlein Mun Ct App Dist Col A2d 472 (1946), Turner v. Anderson 376 So ed 899 (1979), Estate of Atwood 240 ME 2d 451 (1968), Bergin v. Ashford 264 NE 2d 266 (1970), White v. Henrotin Hospital Corp. 398 NE 2d 24 (1979), Valdivia v. Chicage & North Western Transp. Co. 409 NE 2d 457 (1980), Suckow v. Boone State Bank & Trust, Co.314 NW 2d 412 (1982), Field v. Stauffer Publications, Inc.578 P2 1138 (1978), Allan v. Smith 390 Do 2d 1300 (1980), Azarian V. Ettinger 435 NE 2d 638 (1982), McArthur Patton Christian Assoc v. Farm Bureau Insurance Group 270 NW 2d 101 (1978),Breza v. Schmitz 248 NW 2d 921 (1976), Venker v. Hyler 353 SW 2d 590 (1961), Roberson v. Kilborn 40 Nev 423, 165 P 220 (1971),

Kalosha v. Novick 426 P. 2d 598 (1967), Dubois v. Iovinella 222 NY S 2d 460.

This action must be dismissed or as an alternative Edith Tabachnick is to be deposed along with Duces Tecum and costs.

Therefore, based on the foregoing facts and evidence Gertrude Davis Gorod moves the court to allow her motion.

By,
S/ Gertrude Davis Gorod
Heir to the Estate of
David Miller
371 Bryant Street
Malden, Ma 02148

APP. 14

COMMONWEALTH OF MASSACHUSETTS
PROBATE AND FAMILY COURT DEPARTMENT

BRISTOL, SS. DOCKET NO. 96E0055-PP

ESTATE OF DAVID MILLER

NOTICE OF TAKING DEPOSITION OF EDITH TABACHNICK
AND DUCES TECUM

Pursuant to Rule 30 of the Massachusetts Rules of Civil Procedure you (Edith Tabachnick), are hereby ordered to appear at 10:00 A.M. on July 11, 1997, at Doris O. Wong & Associates 50 Franklin Street Boston, Massachusetts to take your deposition upon oral examination. The oral examination will continue from day to day until completed.

DUCES TECUM

You are to bring with you the following:

(1) All correspondence, notes, memorandums, etc., that you will present as evidence at time of trial.

Plaintiff will reproduce these documents at time of deposition.

By,
S/Gertrude Davis Gorod, Heir to
the Estate of David Miller
371 Bryant Street
Malden, Ma 02148

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS. PROBATE AND FAMILY COURT
DOCKET NO. 96E0055-PP

ESTATE OF DAVID MILLER

GERTRUDE DAVIS GOROD'S MOTION IN OPPOSITION TO PETITIONER'S PROPOSED STATEMENT OF THE CASE, PROPOSED AGREED UPON FACTS AND EDITH TABACHNICK"S PROPOSED JUDGMENT AT THE CONCLUSION OF THE EVIDENCE

Now comes Gertrude Davis Gorod, heir to the Estate of David Miller and opposes the petitioner's proposed statement of the case, opposes proposed agreed upon facts and opposes Edith Tabachnick's proposed judgment at the conclusion of the evidence.

EDITH TABACHNICK IS NOT A LEGAL HEIR TO THE ESTATE OF DAVID MILLER.

Edith Tabachnick broke into the residence of David Miller and stole 1.6 million dollars of items from his late residence along with a copy of his will leaving only his bed and refrigerator.

Attorney Mark Berch and the administrator Fred Davis, informed her to return these items forthwith, which she refused.

Attorney Berch informed her attorney Mr. Gay that he needs the title and registration and keys to the car and she was to return these items, however, she refused.

By her own admission, she admitted to the fact that she took these items out of state

making it a Federal Crime of taking stolen items over state lines.

No proceeds are going to anyone until Gertrude Davis Gorod is paid for legal fees of $16,000.00, caused by Edith Tabachnick and $3,475.54 which she paid for taxes and water bills on the properties of the Estate of David Miller.

David Miller had a will and it was stolen by Edith Tabachnick.

Both Gertrude Davis Gorod and Fred Davis, took care of David Miller and his brother John providing them with food and health care and well being.

There is more to the Estate than two parcels of Real Estate there is 1.6 million dollars which was stolen by Edith Tabachnick and must be returned to the Estate of David Miller forthwith.

The proceeds will not be divided until Gertrude Davis Gorod gets her $16,000.00 in legal fees and $3,475.54 which she paid in taxes and water bills regarding the Estate of David Miller.

Gertrude Davis Gorod, will not sell property at a price of $40,000.00, when a motion to sell the property was denied by the court in which the selling price was $95,200.00.

The bottom line is that **EDITH TABACHNICK IS NOT A LEGAL HEIR TO THE ESTATE OF DAVID MILLER.**

By,
S/ Gertrude Davis Gorod
Heir to the Estate of
David Miller

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss Probate and Family Court
Docket No. 96E0055-PP

ESTATE OF DAVID MILLER

FRED DAVIS' MOTION IN OPPOSITION TO PETITIONER'S PROPOSED, STATEMENT OF THE CASE, PROPOSED AGREED UPON FACTS, AND EDITH TABACHNICK'S PROPOSE JUDGMENT AT THE CONCLUSION OF THE EVIDENCE

Now comes Fred Davis, heir to the Estate of David Miller and opposes the petitioner's proposed statement of the case, opposes proposed agreed upon facts, and opposes Edith Tabachnick's proposed judgment at the conclusion of the evidence.

EDITH TABACHNICK IS NOT A LEGAL HEIR TO THE ESTATE OF DAVID MILLER.

Edith Tabachnick removed items from the Estate of David Miller and has refused to return these items which legally belong to the Estate of David Miller.

Attorney Mark Berch and the Administrator Fred Davis, informed her to return these items forthwith, which she refused to do.

Attorney Berch informed one of her prior attorney Mr. Gay that he needed the title, registration and keys to the car and she was to return these items, however, she refused.

By, her own admission , she admitted to

the fact that she took these items out of Massachusetts.

Fred Davis, when he was administrator and when he was not administrator, there are Expenses of the Estate of David Miller, which was paid by Fred Davis. There are Traveling and Expenses and Time Spent regarding the Time Spent regarding the Estate of David Miller. **SEE AFFIDAVIT AFFIXED HERETO AS FRED DAVIS' EXHIBIT "A" IN THE COMBINED TOTOAL OF $25,777.03.**

Both Gertrude Davis Gorod and Fred Davis took care of David Miller and his brother John providing them with food and health care and well being in addition Fred Davis paid for ambulances service.

Fred Davis will not sell property at a price of $40,000.00, when the properties are assessed for a value of $108,000.00.

Gertrude Davis Gorod has an offer close to the assessed value of the properties and the court would not allow the sale of the properties.

It is my understanding that one of Edith Tabachnick's prior attorneys Rocco Senese wanted to sell both properties to William Zoll at a price of $25,000.00.

The facts indicate that Edith Tabachnick's atorneys are interested in these properties for their own personal gains.

THE BOTTOM LINE IS THAT EDITH TABACHNICK IS NOT A LEGAL HEIR TO THE ESTATE OF DAVID MILLER.

S/ Fred Davis Heir to The Estate of David Miller

AFFIDAVIT OF FRED DAVIS

I, Fred Davis, being first duly sworn and say:

1. I am a legal heir to the Estate of David Miller.
2. I have cared for and provided for the health and well-being of my uncle David Miller and his brother John Miller who was also my uncle.
3. I was for a period of time the Administrator of the Estate of David Miller.
4. I have filed with the court a previous claim against the Estate of David Miller in the amount of $25,777.03 for monies paid out of my own funds pertaining to the Estate of David Miller.
5. June 9, 1998, I paid both the 1998, real estate and water bills for the Estate of David Miller in the combined amount of $1,817.21.
6. I am now filing a claim against the Estate of David Miller in the amount of $27,594.24, to include the 1998 real estate and water bills that I paid out of my own funds for the Estate of David Miller.
7. I am entitled to reimbursement of these monies as a matter of law.
8. Filed previously with the court is a claim against the Estate of David Miller by Gertrude Davis Gorod an heir to the Estate of David Miller.
9. I have read the foregoing and swear that it is true to the best of my knowledge and belief.

S/Fred Davis, Heir to the
Estate of David Miller

On this 13 day of June, 1998, Fred Davis personally appeared before me and being by me first duly sworn, did make oath and say that the matter set forth in the foregoing Affidavit is true to his own knowledge and belief.

S/ Jodi B. Lloyd, Notary Public
My commission expires: 12/17/04

EXHIBIT "A"

COMMONWEALTH OF MASSACHUSETTS

BRISTOL DIVISION PROBATE AND FAMILY COURT
DOCKET NO. 96E0055-PP

ESTATE OF DAVID MILLER

FRED DAVIS' MOTION FOR SANCTIONS FOR FAILURE TO APPEAR AT A PRETRIAL CONFERENCE AND FAILURE TO COMPLY WITH COURT ORDER

Now comes Fred Davis, heir to the Estate of David Miller and moves the court to order sanctions against attorneys Joseph S. Provanzano and Paul M. Derby for failure to attend a pretrial conference and failure to comply with the court order.

MEMORANDUM IN SUPPORT OF FRED DAVIS' MOTION FOR SANCTIONS FOR FAILURE TO APPEAR AT A PRETRIAL CONFERENCE AND FAILURE TO COMPLY WITH COURT ORDER

The Court issued a pretrial notice and order for parties to appear in Court on June 23, 1997, at New Bedford at 9:30 A.M.

Edith Tabachnick's attorneys Joseph S. Provanzano and Paul M. Derby did not attend the pretrial conference and failed to comply with the Court order.

Therefore, pursuant to Pretrial Notice and Order Exhibit "A: affixed hereto: sanctions are to be placed against Edith Tabachnick in the form of dismissal of the action and costs and damages

against attorneys Joseph S. Provanzano and Paul M Derby in the amount of $500.00, each for failure to appear in court which was ordered by the court.

Based on the foregoing facts and evidence Fred Davis, moves the Court to Allow his Motion.

By,
S/Fred Davis, Heir to
the Estate of David
Miller

PRE-TRIAL NOTICE AND ORDER

At such pre-trial conference the Court will consider the simplification of the issues, the necessity of amendments to the pleadings, the prospects of settlement, or such other matters as may aid to the trial or any other disposition of the action.

At the conclusion of such pre-trial conference, an appropriate order will be entered reflecting the action taken at such conference.

At trial counsel and parties shall attend pretrial conference. Failure of counsel to appear at any scheduled pre-trial conference or otherwise to comply with provisions of this order will result in the imposition of such sanctions as the Court may deem appropriate.

If settlement is achieved prior to or at the pre-trial conference, the pre-trial conference time may be utilized for a hearing on an uncontested basis.

The case may be ordered to immediate trial on the date of the pre-trial conference if the Court determines at the pre-trial that (a) the parties to the action will be the only witnesses or (b) one party, through a failure to appear at the pre-trial or otherwise, will not present a case; or (c) such commencement of trial is necessary in the judge's discretion to accomplish justice.

8th day of May 1997 Elizabeth O'Neill LaStaiti

COMMONWEALTH OF MASSACHUSETTS
PROBATE AND FAMILY COURT DEPARTMENT
BRISTOL, SS. DOCKET NO. 96E0055-PP
ESTATE OF DAVID MILLER

GERTRUDE DAVIS GOROD'S MOTION BARRING THE BRISTOL COUNTY FROM HEARING AND RULING ON ANY MATTERS REGARDING THE ESTATE OF DAVID MILLER

Now comes Gertrude Davis Gorod, heir to the Estate of David Miller and is barring the Bristol County Courts from hearing and ruling on any matters regarding the Estate of David Miller.

The Bristol County Courts violated Gertrude Davis Gorod's Constitutional Rights along with other rights and issues.

There has been misconduct on the part of employees in the Bristol Court system.

There are legal actions against employees in the Bristol Court system pending in both the State and Federal Courts.

Therefore, it is not appropriate for this Court to have any further involvement in this estate.

If the situation should warrant any further inferior court involvement, there is to be a change of venue to the Middlesex County Courts.

Based on the foregoing reasons the Bristol County Courts are barred from any involvement in the Estate of David Miller.

This motion must be allowed

By, Gertrude Davis Gorod, Heir to the Estate of David Miller

SANCTIONS AND COSTS AGAINST JOSEPH PROVANZANO

Now comes Gertrude Davis Gorod, heir to the Estate of David Miller and moves the Court to place sanctions and cots of $700.00, against Joseph Provanzano for filing frivolous, fraudulent document dated February 7, 1997.

MEMORANDUM IN SUPPORT OF SANCTIONS AND COSTS AGAINST JOSEPH PROVANZANO

Gertrude Davis Gorod, is again being discriminated against, harassed and continuing frivolous documents are being filed in the court pertaining to the same action and he knows that its been appealed to the Massachusetts Supreme Judicial Court, and is pending in that court.

In addition, Mr. Provanzano is also continuing not to notify Gorod of his malicious acts, with the actual intent to harm and hurt Gorod.

February 13, 1997, another heir to the Estate of David Miller received a frivolous invalid document from Joseph Provanzano, however, Gorod did not receive a copy of this document. Copy of this document is affixed hereto as **DOCUMENT #1.**

This document is a fraud, frivolous, invalid, contains falsehoods is without merit and done with the actual intent to hurt and harm Gorod.

Mr. Provanzano is fully aware that this case is pending in the Massachusetts Superior Court, as his own law firm has filed 15 copies of the Appellee's briefs to the Clerk of the Supreme Judicial Court. Copy of this document is affixed hereto as **DOCUMENT #2.**

ATTORNEY'S OATH: STATES in pertinent part: "You solemnly swear that you will do no falsehood nor consent to the doing of any in court."

"You will not wittingly or willingly promote or sue any false, groundless or unlawful suit....." massachusetts general laws 221 section 38.

MASSACHUSETTS CANON RULES - CANON 1 - DISCIPLINARY RULES DRI-102 MISCONDUCT (A) A LAWYER SHALL NOT (4) ENGAGE IN CONDUCT INVOLVING DISHONESTY, FRAUD, DECEIT, OR MISREPRESENTATION. (5) ENGAGE IN CONDUCT THAT IS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE.

Mr. Provanzano has violated his attorney's oath when he knowingly and wilfully made falsehoods in the court when he said "Edith Tabachnick wants to sell the property". This statement is a complete lie. Both heirs filed a Motion To Sell the Property, however, without even hearing what the selling price Provanzano's office went into Court opposing the sale again without hearing what the selling price was. Now he is again using the Court to harass Gorod with some fraudulent document.

Mr. Provanzano violated both his attorney's oath and violated the Canon Rules when he informed the Court that Edith Tabachnick did not take anything from the Estate of David Miller, however, this is a falsehood. Mr. Provanzano was fully aware that Edith Tabachnick, his client, violated the **MASSACHUSETTS GENERAL LAWS CHAPTER 19A §14**

"FINANCIAL EXPLOITATION" "an act or ommission by another person, which causes a substantial monetary or property loss to an elderly person, which again would otherwise benefit the elderly person".

Gorod is an elderly person and is a victim of "Financial Exploitation" by Edith Tabachnick and condoned and covered-up by Mr. Provanzano with his lies to the court.

Tabachnick took 250,000.00 of items which caused a substantial monetary and property loss to Gorod, however, she gained 250,000.00, by stealing Gorod's inheritance. She has traveled throughout the United States, the Islands and Overseas. She broke into the residence of the late David Miller right after his funeral and stole items in the amount of $250,000.00 and refused to return them to the Estate of David Miller to which Gorod is a rightful heir, therefore, she stole Gorod's inhertance. See copy of letter affixed hereto as **DOCUMENT #3.**

Mr. Provanzano is committing fraud when he states that "petition has been presented to said Court by Edith S. Tabachnick of Los Angeles in the State of California See Document #1. The fact of the matter is she is not in Lose Angeles in the State of California she is at 122 Maple Street Malden, Ma 02148 See COPY OF LETTER SENT TO Edith Tabachnick at 122 Maple Street, Malden, Ma 02148 by Mr. Provanzano affixed hereto as **DOCUMENT #4.** Mr. Provanzano is continuing to lie to the Court.

Mr. Provanzo's **DOCUMENT #1** does not state what this document is all about it merely lists the property of the Estate of David Miller, moreover, this is not a valid document as it appears that some of the working is covered up and the bottom line "I certify under the penalties of perjury that I have served the foregoing citation by.....is **NOT COMPLETED.**

Mr. Provanzano has caused me to spend $16,000.00, my life's savings in defending frivolous claims, he has committed fraud, telling falsehoods to the courts and obstructed justice.

Therefore, based on the foregoing facts and evidence Gertrude Davis Gorod, heir to the Estate of David Miller moves that sanctions be placed upon Joseph Provanzano and this court is to refer his disbarrment to the Massachusetts Supreme Court for immediate action and Gertrude Davis Gorod is to be paid $700.00 in costs for defending a frivolous action and fraudulent document.

By,
S/ Gertrude Davis Gorod
Heir to the Estate of
David Miller
371 Bryant Street
Malden, Ma 02148

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss PROBATE COURT

To: Fred Davis and Gertrude Davis Gorod both of Middlesex_____and all other persons interested.

A petition has been presented by said court by Edith S. Tabachnick of Los Angeles State of California

THE REMAINDER OF THE CONTENTS OF THIS DOCUMENT IS ILLEGIBLE.

Printed name Robert E. Peck

No Date

I, certify under the penalties of perjury that I have served the foregoing citation by

_____

_____

NO SIGNATURE OR DATE

DOCUMENT #1

APP. 30

PROVANZANO & ASSOCIATES
16 Bourbon Street
Peabody, Massachusetts 01960-1338

December 30, 1996

Clerk of Court - Civil
Supreme Judicial Court
New Court House, Pemberton Square
Boston, Ma 02106

Re: Estate of David Miller, Fred Davis, Gertrude Davis Gorod vs. Tabachnick
No. SJC-07313

Dear Sir/Madam:

Please find enclosed 15 copies of the appellee's brief for filing in the above-cited matter.

Very truly yours,
S/Paul M. Derby
Attorney at Law

DOCUMENT #2

Mark F. Berch
Braintree, Ma.

March 26, 1990

David T. Gay,
Gay and Gay
73 Washington St.
Taunton, Ma 02780

In re: Estate of David Miller

Dear Mr. Gay:

With regard to the above matter I am requesting that your client Edith Tabachnick provide my office with the deed and keys to the real estate in Raynham and the keys title and registration to the motor vehicle.

Additionally for the items that Ms. Tabachnick has stated that she removed from the property after Mr. Miller's death, I require a full accounting and itemization of everything.

I would like to know the complete name and address of all persons who accompanied your client into the house when these items were removed. At this time I am attempting to collect the estates's property and the cooperation of your client is essential for me to achieve this purpose.

Kindly contact my office at your earliest convenience to further discuss this matter.

Very truly yours,
S/ Mark F. Berch

DOCUMENT #3

Very truly yours,
Provanzano & Associates
Attorney at Law

JSP/s

enclosure

cc: Ms. Edith Tabachnick
122 Maple Street
Malden, Ma 02148

cc: Clerk of Court
Probate & Family Court
11 Court Street P.O. Box 567
Taunton, Ma 02780-0567

DOCUMENT #4

ADDITIONAL SANCTIONS AND COSTS AGAINST
JOSEPH S. PROVANZANO FOR CONTINUING TO ACT
IN BAD FAITH

Now comes Gertrude Davis Gorod, an heir to the Estate of David Miller and moves the court to place additional sanctions and costs against Joseph S. Provanzano for continuing to act in bad faith. (1) He is continuing to violate the Massachusetts Canon Rules by lying to the Court. (2) He is continuing to violate the Massachusetts Attorney's Oath by telling falsehoods to the Court. (3) He is using the Court as a tool to harass and hurt and harm Gertrude Davis Gorod.

MEMORANDUM IN SUPPORT OF ADDITIONAL SANCTIONS AND COSTS AGAINST JOSEPH S. Provanzano for continuing

TO ACT IN BAD FAITH

Mr. Provanzano is violating both the Massachusetts Canon Rules and Massachusetts Attorney's Oath by making the following falsehoods to the Court in his letter dated February 21, 1997 to the Court, which states: "These so-called filings are in direct violation of the ORDERS of this court, which clearly were made know to both of these parties that they were not to file any more pleadings without prior leave of Court". THIS STATEMENT IS A FALSEHOOD WHIC IS NOT ACCEPTABLE BY BOTH THE MASSACHUSETTS CANON RULES AND MASSACHUSETTS ATTORNEY'S OATH. This time of falsehoods was done with the actual intent to deceive and fraud the Court which has been his continuing practice. Mr. Provanzano filed this fri-

volous action in 1996, Case No. 960055-PP and THERE HAS BEEN NO COURT ORDERS ON THIS ACTION, therefore, any evidence can be submitted to the Court to establish that a frivolous, fraudulent action was filed to harass, hurt and harm Gertrude Davis Gorod along with depriving her from her rightful inheritance. See **DOCUMENT #1 AFFIXED HERETO:**

Mr. Provanzano has moreover, fortified Gertrude Davis Gorod's facts and evidence. He does not deny that he violated the Massachusetts Canon Rules. He does not deny that he violated the Massachusetts Attorney's Oath. He does not deny that he filed a frivolous, fraudulent, invalid document that was covered up and was nothing except the listing of the property of the Estate of David Miller. He does not deny that he is covering up Financial Exploitation against Gertrude Davis Gorod. He does not deny that he committed fraud when he states that "petition has been presented to said Court by Edith S.Tabachnick in Los Angeles in the State of California when the fact of the matter is she at 122 Maple Street, Malden, Ma now he is using his famous cover-up that he is noted for by using everyone's address except Ms. Edith Tabachnick **DOCUMENT #1 affixed hereto:**

Finally, Gertrude Davis Gorod, strongly takes exception to Mr. Provanzano's statement

".....have done nothing but distrub the normal operation of this Court ". **SEE DOCUMENT #1 affixed hereto:**

There are no signs in any of the Bristol County Courts that are closed because of Gertrude Davis Gorod. All Courts are open and Court business is being conducted per usual.

Therefore, based on the foregoing facts and evidence Gertrude Davis Gorod, heir to the Estate of David Miller moves that additional sanctions be placed upon Joseph Provanzano in the sum of $1,500.00 in addition to $700.00 previously requested to the Court.

By,
S/GERTRUDE DAVIS GOROD
Heir to the Estate of
David Miller

PROVANZANO & ASSOCIATES
16 Bourbon Street
Peabody, Massachusetts 01960-1338

February 21, 1997

Clerk of Court
Probate & Family Court
11 Court Street P.O. Box 567
Taunton, MA 02780-0567

Re: Edith Tabachnick
Estate of David Miller
Probate Action : 96E0055-PP
Our File : P09-372

Dear Sir/Madam:

Pleased be advised that I have recently received a rather absurd filing by Getrude and by Fred Davis, which seeks to impose some sort of sanctions for my office filing an opposition to their pleadings pending in the supreme court. These so-called filings are in direct violation of the orders of this court, which clearly were made known to both of these parties that they were not to file any more pleadings without prior leave of court.

I am writing to this court to request that sanctions be imposed for these filings in direct violation of the orders of this court.

I also not for the record that these so-called filing seem to seek relief based upon evidence that has never been submitted or determined by this court and to be candid, are absurd

filings similar to the many absurd filings that have done nothing but disturb the normal operation of this court.

Thank you for your courtesy in this matter.

Very truly yours,
S/Joseph S. Provanzano

DOCUMENT #1

CC: Ms Edith Tabachnick
CC: Mr. Fred Davis
353 Bryant Street
Malden, MA 02148
CC: Ms Gertrude Gorod
371 Bryant Street
Malden, Ma 02148

COMMONWEALTH OF MASSACHUSETTS

ZOBEL, J

BRISTOL, SS PROBATE AND FAMILY COURT
DOCKET NO. 96E0055-PP

ESTATE OF DAVID MILLER

MEMORANDUM OF DECISION AND ORDER ON PETITION TO PARTITION

PROCEDURAL BACKGROUND

Before this Court is a Petition for Partition of real estate, previously owned by the decedent David Miller, of which petitioner and respondents are the only surviving heirs.

The parties who hold title to subject property are cousins and took title to this real estate by right of representation which passed as a matter of law in 1989, pursuant to M.G.L c. 190 § (5).

The said real estate consists of two parcels of land one at 1667 Broadway Raynham, Ma and a 1.2 acre lot across the street on Broadway.

There was a prior judgment by the Court (LaStaiti,J) (March 5, 1996 the Judge ordered that "no further pleadings of any type, with the exception of a Petition to Partition may be filed in this Court".

The pro se respondents Gertrude Davis Gord and Fred Davis have appealed the prior case to numerpis courts of the Commonwealth starting with a dismissal by this Court on May 7, 1996 (as noted above), a dismissal by the Superior Court with prejudice (Zobel, J). on June 11, 1997, a denial of petition for appeal by the Supreme Judicial Court (Greaney), on July 3, 1997, and most recently the respondents have filed a Writ of Certiorari with the Supreme

Court of the United States on September 22, 1997.

FINDINGS OF FACT

Record title to subject property is held by the following people: Edith Tabachnick Petitioner 45%, Gertrude Davis Gorod pro se respondent, 27.5% Fred Davis 27.5%. In February 1995, the house that was standing on 1667 Broadway burned down. At that time, respondent Fred Davis was administrator for the estate and had not kept any insurance on the house, The assessed value of the property was as determined by the Town of Raynham Real Estate Tax appraisal on April 16, 1996 is $63,400.00 (1667 Broadway) and $44,600.00 (1.2 Acres for a combined value of $108,000.00. The petitioner retained the services of an appraiser and it was the conclusion of said appraiser that the assessed value was in fact approximately the same as fair market value. The Court finds that the property does not lend itself to division, setting aside of any portion, or allocation between the title holders and would in fact produce more value if sold together, or as two separate parcels. Therefore, a private sale would be the most advantageous division of the property. The Court further finds, that there is a level of animosity between the parties which would not allow for an agreement as to a private sale: therefore there is a need for appointment of a commissioner. Respondent Fred Davis did not appear before this court for hearing on parition for

partition. At the hearing, the pro se respondent Gertrude Davis Gorod acting for herself persisted in her allegations that the petitioner was not an heir to the estate, and that there had in fact been theft from the estate. These issues were not before the court at this time and it would appear that they were previously litigated.

CONCLUSION AND FINDINGS OF LAW

This Court has exclusive jurisdiction in equity over all actions for partition of land, pursuant to M.G.L. c241 § 2 Moat v. Duchame 28 Mass. App. Ct. 749 (1990): Batchelder v. Munroe,335 Mass. 216,218-19 (1957). M.G.L.c241 § 31 provides that "[t] the Court may order the commissioner to sell and convey the whole or any part of the land which cannot be divided advantageously... and to distribute the proceeds so as to make the partition just and equal". The Court must find by a preponderance of the evidence that the land cannot be advantageously divided before ordering the sale "Delta Materials Coporation v. Bagdon, 33 Mass. App. Ct. 333, quoting Clough v. Cromwell, 250 Mass. 324 (1927), and Mello v. Mello. 322 Mass 68,69 (1947). The responsibility of deciding whether the real estate is to be divided or sold is upon the Probate Court Platts v. Wronski 15 Mass. App. Ct. 30, 34 (1982) citing Clough v. Cromwell, 250 Mass. 324 (1927) and Newhal Setllement of Estates §§ 308 314 (4th ed. 1958). A sale of subject real estate is in order and an appropriate disbursement

of proceeds thereby resulting, will establish closure to this acrimonious affair. Attorney Robert Funke of Taunton shall be appointed as commissioner.

Date 10/23/97

S/Malcolm Jones
Judge of the Probate & Famiiy Court

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

97-2328

EDITH S. TABACHNICK

VS

FRED DAVIS & another.1

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

In this Probate Court action for partition the pro se respondents have appealed from a decree ordering partition and appointing a commissioner, from an order allowing a motion to lift a stay pending appeal and to order the Commissioner to sell the property at issue, and from an order denying their motion to remove the commissioner.2 In their appellate briefs, however, the respondents offer no argument of substance on these issues and thus we deem them waived. Mass. R.A.P. 16(a) (4), as amended, 367 Mass. 921 (1975). See Warner-Lambert Co. v. Execuquest Corp., 427 Mass. 46, 50 n.7 (1998). Although the respondents do raise a host of other issues respecting the proceedings below, 3

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1 Gertrude Davis Gorod

2 We do not consider issues that were not properly before the Probate Court respecting its consideration of the petition for partition, most notably whether the petitioner is an heir of the estate of David Miller or whether she improperly took items belonging to the estate. See A. 63, 65.

3 Although the respondents claim error in the denial of their request for a continuance on grounds that the scheduled hearing date of October 9, 1997, was a Jewish holiday, we not the respondent Gorod nonetheless appeared on that date and that the judge stated during the hearing (Tr. 6): "(L)et the record reflect that the judge stated during the hearing (tr.6): "(L) et the record be any impediment to Mr. Davis appearing today." The respondents have demonstrated neither a basis for their argument, nor that the judge erred.

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in most respects their argument consists of nothing more than bald assertions which we need not address. See Zora v. State Ethics Comm. 415 Mass. 640, 642 N.s (1993). Moreover, in violation of Mass. R.A.P. 18(a) as amended, 425 Mass. 1602 (1997), they have not reproduced on appeal any of the various orders respecting discovery, the denial of requested sanctions or other matters of which they presently complain, effectively precluding our review. See Shawmut Community Bank, NA. v. Zaqami 411 Mass. 807,81 1 (1992) (Under rule 18 (a), an appellant must provide the reviewing court with all relevant portions of the record") S.C. 419 Mass. 220 (1994). The decree ordering partition and appointing the commissioner is affirmed.

The defendant-appellee's request for an award of attorney's fees, costs and santions pursuant to Mass. R.A.P. 25 amended, 376 Mass. 949 (1978), is allowed in the amount of $700.00 for attorneys's fees and double costs of appeal.

So ordered

By the Court (Brown, Porada & Greenberg, JJ.),

S/Ashley Ahern
Clerk

ENTERED: January 31, 1999

SUPREME JUDICIAL COURT FOR THE COMMONWEALTH OF MASSACHUSETTS
1412 COURTHOUSE, BOSTON, MASSACHUSETTS 03108
(617) 557-1020

Gertrude Davis Gorod
371 Bryant Street
Malden, Ma 02148

RE: Docket No. FAR-10378

GERTRUDE DAVIS GOROD

VS.

EDITH TABACHNICK

NOTICE OF DENIAL OF F.A.R. APPLICATION

Please take note that the above-captioned Application for Further Appellate Review has been considered by the Court and is denied.

(no signature) Jean M. Kennett, Clerk

Dated: March 30, 1999

Dated March 30, 1999

To: Gertrude Davis Gorod
Paul M. Derby, Esquire
Joseph S. Provanzano, Esquire